

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DON'S FRYE, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

L'OREAL SA, FRANCE, a French
Corporation, and L'OREAL USA, INC.,
a New York corporation,

Defendants.

Court No.: 08 C 213

Judge Gettleman
Magistrate Judge Denlow

L'OREAL USA, INC.'S MOTION TO DISMISS PURSUANT TO RULE 12(B)(6)

Defendant L'Oreal USA, Inc. ("L'Oreal"), by and through its counsel, Sedgwick, Detert, Moran & Arnold, LLP, hereby moves this Court to dismiss Plaintiff's Complaint with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of its motion, it states as follows:

1. On January 9, 2008, Plaintiff filed this putative nationwide class action arising out of the purchase of lipstick that allegedly contained concentrations of lead.

2. By order dated April 14, 2008, the Court set the response date for Defendant L'Oreal as May 16, 2008.

3. Plaintiff's Complaint should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because Plaintiff has failed to state a cause of action against Defendant L'Oreal.

4. In further support of its Motion to Dismiss, L'Oreal relies on the points and authorities in its supporting memorandum of law, which is filed simultaneously herewith and incorporated by reference. L'Oreal understands that the Court will permit a brief of up to twenty (20) pages as requested in L'Oreal's motion dated May 12, 2008.

WHEREFORE, for the above stated reasons, Defendant L'Oreal USA, Inc. respectfully requests that this Court dismiss Plaintiff's Complaint and each cause of action therein.

Respectfully Submitted,

SEDGWICK, DETERT, MORAN & ARNOLD LLP

By: s/ Anthony J. Anscombe
One of the Attorneys for Defendant L'Oreal USA, Inc.

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